

California Performance Review Commission
Testimony on CPR Reorganization Proposals by Gerald H. Goldberg,
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CALIFORNIA TAX COMMISSION

The California Performance Review (CPR) recommends the creation of a California Tax Commission, which would take on the functions of the Franchise Tax Board (FTB), the functions of the Tax Branch of the Employment Development Department (EDD), and the functions of the Department of Motor Vehicles related to the Vehicle License Fee (VLF). The commission would be composed of the members of the Board of Equalization (BOE) serving in an ex-officio capacity with the State Controller serving as the Commission's initial chairperson.

The Franchise Tax Board has not taken a position to support or oppose the creation of the California Tax Commission. The State and Consumer Services Agency directed us to analyze the CPR reorganization recommendations as they relate to five key questions as directed by the Governor's Office and the CPR Commission:

Will the creation of a CTC make government more accountable to the people of California?

No. This proposal would permanently remove the governor and the Department of Finance from direct oversight over the administration of California taxes. Virtually all of the state's revenue generating functions would be under the direction and control of constitutionally elected officials whose titles and functions are obscure to most taxpayers. If this change were made, most taxpayers would still hold the governor accountable for tax administration despite the fact that the governor would have no direct involvement.

Other alternatives exist for achieving the benefits of consolidation while maintaining or increasing accountability to the public. For example, FTB, EDD's Tax Branch, and VLF administration could be folded under the existing Franchise Tax Board, which is composed of the Director of Finance, the State Controller and the Chair of the BOE. Such an approach would preserve the role of the Administration and the Controller, who also plays an important role in state finances. Another option would be to create a Department of Revenue within the administration, a model embraced by many other states. This approach would not only preserve, but would strengthen the role of the Administration with regard to revenue generating functions within the State. A third option would be to combine the three organizations under a governance body comprised of the governor, the controller, and the treasurer or some other governance body that includes the governor and the controller. This approach would preserve the role

of the governor and the controller and could provide a role for all three of the statewide elected officials with direct involvement in the state's financial matters if the treasurer were also included—arguably providing the greatest degree of accountability to the public.

Will the creation of a CTC improve access to services?

Yes. Bringing the three organizations together would provide opportunities to improve customer service by creating a single point of contact for some taxpayers and some issues. For example, a business with both employment tax and income tax related questions or issues would not have to call two different state agencies to resolve them or the Commission could propose legislation to enable a taxpayer with multiple debts to establish a single payment arrangement for all of them.

Will the creation of a CTC streamline operations and improve program efficiency?

Yes. Because all three organizations have some like functions, there could be opportunities to improve efficiency in those areas, e.g., document processing and cashiering¹, audit, collections, and administrative functions.

Further, while FTB, EDD, and DMV currently share some information among their programs, bringing their IT systems and data under one organization would provide additional opportunities for improving customer service and program compliance through better use of information. It could also alleviate some concerns raised by the IRS associated with sharing of IRS information across separate state entities.

Efficiency and effectiveness could also be improved, because each of the organizations has experienced success in certain areas that could be leveraged by the programs of the other organizations. For example, we could explore expanding or duplicating FTB's state-of-the-art Accounts Receivable Collection System and Integrated Nonfiler Compliance System to improve compliance in the employment tax and vehicle license fee programs.

Will the creation of a CTC result in savings and at what up-front cost?

Yes. Combining FTB, EDD's Tax Branch, and VLF administration under one organization will provide opportunities to increase efficiency and generate some savings, mostly to the General Fund. However, the magnitude of the impact is unknown and would be realized over time. Further, these benefits would be offset by the costs associated with bringing the organizations and their systems

¹ In the area of document processing and cashiering, there is a separate CPR recommendation to consolidate the cashiering functions of FTB, EDD Tax Branch, and the BOE. Such a consolidation of cashiering functions is also the subject of a study currently being conducted by the Legislative Analyst's Office in accordance with legislation passed last fall (AB 986).

together, particularly in the near-term. Also, working through the organizational, technological, and myriad other issues associated with bringing the three organizations together could distract us for some period of time from our core revenue-generating functions.

What are the implementation issues associated with the creation of a CTC?

It is our understanding that the Administration intends to propose the CPR reorganization recommendations through a Governor's Reorganization Plan. Current law prohibits such a plan from changing the responsibilities of the BOE by specifically excluding the BOE from the definition of an "agency" that may be subject to such a plan. If the creation of a Tax Commission composed exclusively of BOE members serving in an ex-officio capacity were to be interpreted as changing the responsibilities of the BOE, even indirectly, the proposed consolidation of tax administration functions could not be accomplished by a Governor's Reorganization Plan. In addition, if appeals from the Tax Commission would continue to be taken to the BOE, the composition of the two bodies could be in conflict with the common law doctrine prohibiting the holding of "incompatible offices."

Any radical change in the governance of the FTB could put the department's culture of innovation at risk. As a result of our ongoing efforts to improve the efficiency and effectiveness of our operations, FTB practices are cited in many places in the CPR report as examples for other state agencies to emulate. The department is viewed as a leader in tax administration, both nationally and internationally, as evidenced by our recently completed Voluntary Compliance Initiative—the most successful tax amnesty program in history, which brought in over \$1.3 billion in unanticipated revenues to significantly reduce the current year budget deficit.

A radical change in governance could also impact FTB's ability to implement California's multi-billion dollar single statewide automated child support system. FTB was given the job of implementing the system as an agent of the Department of Child Support Services, because of our proven reputation for successfully implementing large, complex IT projects. Given the high degree of complexity and risk associated with the project, including hundreds of millions of dollars in annual federal penalties assessed against California until the project is implemented, it is critical that FTB maintain its past practices in order to ensure success.

While there are a number of benefits associated with bringing FTB, EDD Tax Branch, and VLF administration under one organization, the appropriate governance structure is essential to avoiding the potential pitfalls discussed above. The best governance framework would provide for a realization of the benefits, increase accountability to the public, and avoid the issues and risks associated with any radical change in governance.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The CPR recommends consolidating the structure of the Health and Human Services Agency, placing the Secretary at the head of a new Department of Health and Human Services composed of the existing CHHSA departments, each renamed Centers. Functions of the existing Department of Child Support Services (DCSS) would be included under the Center for Social Service, an agency that would include public cash assistance and child welfare services.

With respect to child support services, this represents a repeal of the structural approach enacted in 1999 that included the establishment of an independent department to supervise local child support enforcement.

Our concerns with the proposal stem from FTB's role as the project agent acting on behalf of the DCSS in managing the California Child Support Automated System (CCSAS) project. The proposed reorganization could affect the ability of FTB in carrying out these responsibilities.

Implementing this reorganization in the midst of the CCSAS project introduces significant risks to the project that need to be weighed against the benefits of the proposal. The risks associated with this proposal fall in two areas.

1. The CCSAS project requires significant involvement from policy makers within the DCSS. The new system will introduce a fundamental change in the way California enforces child support and DCSS executive management must make the policy calls regarding their program. Any change in department structure would necessarily divert management attention from the needs of the CCSAS project and could result in project delays.
2. Success of CCSAS requires high level executive attention as well. Increasing the profile of child support political leadership by establishing a separate Department of Child Support Services was integral to the strategy for the success of CCSAS. The proposal to return child support organization to the position as one of a number of significant program responsibilities of the Undersecretary for Center for Social Service could reduce the level of executive attention that the project receives. This kind of reorganization would have less of an effect once the CCSAS project is complete, the statewide child support program is established, and in a more maintenance mode. However, undertaking this reorganization at this time would add risks to the CCSAS project.

In light of these risks, FTB would recommend that changes in the organizational structure of DCSS be deferred until the CCSAS project has succeeded in implementing a system that meets federal certification requirements and has ended the payment of federal financial penalties.